

USBN. 10/600,461
Examiner: NAGPAUL, JYOTI
Group A.U.: 1743

Remarks.

The Examiner's comments and objections and the cited references have been carefully considered by the Applicant.

Reconsideration of the application as hereby amended is respectfully requested.

Claim Rejections under 35 USC § 102

In relation with the rejection of Claims 1-4 and 7 for lack of novelty over Hayes the following is submitted.

Applicant could not find in Hayes all the elements of, and arranged in a combination as set forth in Claim 1.

"The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)."

The elements must be arranged as required by the claim... In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)."

Drawings and pictures can anticipate claims if they clearly show the structure which is claimed. In re Mraz, 455 F.2d 1069, 173 USPQ 25 (CCPA 1972). The picture must show all the claimed structural features and how they are put together. Jockmus v. Leviton, 28 F.2d 812 (2d Cir. 1928).

From col. 1, lines 47-49 of Hayes Applicant understands that only the prior art, from which Hayes desires to depart comprised a filtering card.

Hayes instead teaches a device in which a flange member 24 of a sample chamber 20 is welded to a gasket 14 and the assembly is further attached to a holder 18 with a microscope slide 16 interposed.

Hayes states and consistently discloses that, in contrast to conventional chambers with small sample volumes that are absorbed by a filter card, his invention handles larger sample volumes with a seal necessarily placed between the flange 24 and the slide 16, the cells being retained against the slide surface (column 3 lines 57-67, column 4 lines 1-16, 43-49, column 5, lines 28-31 and Figure 1).

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Moreover, Applicant cannot find any horizontal connection channel in Hayes, where the "channel 44" appears to be in fact the "front end of baffle plates 38, 40 and 42... that define a spaced series of inclined ledges..." (columns 5-6, lines 64-67 and 1-5 and Figure 2).

Applicant cannot either find any reference in Hayes to a support 18 that is a monolithic piece molded in plastic material with integral clamp means and transverse pivot.

It rather appears that Hayes teaches an assembled support (holder) 18 that is of a "conventional design, and typically is a channel shaped sheet metal body....with a wire spring clip 54...pivotally attached to the side rails 52.. that can be rotated, passing overalso including a cross bar 56 supported by the side rails 52..." (column 6, lines 47-61 and Figure 1).

No elastic means for taking up plays, no protruding lower edge, and no leaf spring bridge-like element, can either be located by the Applicant in the disclosure of Hayes.

Accordingly, it appears that Hayes does not anticipate in fact the subject-matter of claims 1-4 and 7.

In view of the above, the one with ordinary skills in the art would not be able to envisage any possible, combination between Hayes and Wendt that may lead to obtaining a support with all of the features of, and arranged as in the claimed invention.

It is further submitted that Hayes, with his disclosures that appear to correspond rather to the prior art mentioned by the Applicant in the preamble of his specification, teaches away from an arrangement as claimed by the applicant with a one piece plastic molded, disposable support.

In the applicant's view, such objective facts fully justify a reconsideration of the rejection of claims 1-7, pending in the application, and an allowance thereof.

Additional claims 8-20, based also on the limitations of original claims 1-7, not disclosed by the prior documents, as set forth above, are further submitted herewith for approval.

Favorable action is respectfully solicited.

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It will be noted that a sincere effort has been made to positively respond to all of the points raised by the Examiner.

While it is believed that the amended claims properly and clearly define the present invention, applicant would be open to any suggestion or amendment the Examiner may have or propose concerning different claim phraseology which, in the Examiner's opinion, more accurately defines the present invention.

Respectfully submitted,


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